

OGC Has Reviewed

9 April 1976

MEMORANDUM FOR: Director of Medical Services
FROM : [redacted] STAT
Deputy Director of Medical Services
SUBJECT : Executive Order Restriction on Drug
Experimentation
REFERENCE : OGC 76-1741, dated 7 Apr 76, subject
as above

Charlie:

1. I have no problem with the liberal interpretation of the guidelines regarding drug experimentation in EO 11905. It is not likely that the National Commission will provide further guidelines except in specialized areas and indeed there is a plethora of guidelines already existing which are adequate insofar as policy is concerned.

2. My particular concern has to do with the way in which the Agency complies with these various guidelines. The Agency's difficulties with respect to drug experimentation stemmed from either failure to monitor or intentionally ignoring existing guidelines even though justified in the eyes of management for operational reasons. I believe the Director would be well advised to establish some mechanism which would assure him that the use of drugs and other noxious substances or techniques are within acceptable political and ethical standards. You may wish to discuss this matter with Mr. Blake at some appropriate time.

[redacted] STAT

Attachment

DD/A Registry
76-1771

OGC 76-1741
7 April 1976

MEMORANDUM FOR: Deputy Director for Science & Technology
Acting Deputy Director for Operations
Deputy Director for Administration
Inspector General

SUBJECT : Executive Order Restriction on Drug Experimentation

STAT

1. [redacted] request to solicit comment on what if anything needs to be done about this restriction in section 5(d) of EO 11905. The problem is with the requirement that such experimentation be done in accordance with guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research. The Commission has advised that it does not intend to put out any general regulations or guidelines, but only regulations dealing with rather specialized situations such as experimentation using prisoners, children, the chronically ill, etc.

STAT

2. Obviously this creates a problem of complying with guidelines if, in fact, there are no guidelines. One alternative suggested by [redacted] is that the restriction be interpreted to mean compliance with "such guidelines as may be issued" so that we have to comply only if there are guidelines. Another alternative is for the White House to pressure Acting Secretary Matthews to see to it that the Commission does issue guidelines.

3. The White House would like to know whether we have any experimentation underway or contemplated which would require compliance with the Executive Order and what we think should be covered if the Commission is asked to put out guidelines. They are also interested in our reaction to the liberal interpretation of the restriction.

4. As a matter of law I think we are in safe grounds in the liberal interpretation of the meaning of the guidelines provision provided that the White House gives us an annotation or other indication of what was meant. I am not sure however that being on safe legal grounds is enough in this situation. I would like your input on this and the other questions so I can get back to [redacted] as soon as possible.

STAT

[redacted]
Acting General Counsel

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Charlie - I'm not
sure the Agency should
seek the latitude of
a "liberal interpretation"
re Drug Experiments -
what do ya think???

[Handwritten signature]

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